

**BEFORE THE APPEALS BOARD  
FOR THE  
KANSAS DIVISION OF WORKERS COMPENSATION**

**LINDA M. WILLIAMS**  
Claimant

VS.

**CESSNA AIRCRAFT COMPANY**  
Respondent  
Self-Insured

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Docket No. 228,821

**ORDER**

Respondent appeals from the preliminary hearing Order of Administrative Law Judge Jon L. Frobish dated December 18, 1997, wherein the Administrative Law Judge ordered continued medical treatment for the injury to claimant's neck.

**ISSUES**

Did claimant meet with personal injury by accident arising out of and in the course of her employment with respondent on the date alleged?

**FINDINGS OF FACT AND CONCLUSIONS OF LAW**

Based upon the evidence presented and for the purpose of preliminary hearing, the Appeals Board finds that the Order of the Administrative Law Judge should be affirmed.

Claimant, an employee in Department 10 at Cessna Aircraft Company, was in an automobile accident on July 9, 1997. At that time, claimant fell asleep at the wheel as the result of fatigue associated with the recent death of her mother and medication claimant was taking. Claimant's car struck a pole and flipped over on its top. Claimant was suspended upside down hanging from her seat belt. Claimant's air bag did deploy.

Claimant was examined and treated by her family physician, Todd A. Miller, M.D., on July 10, 1997. At that time claimant's physical examination indicated injuries to her right arm, including a burn on the forearm. Claimant's cervical spine range of motion was found to be within normal limits, with no tenderness.

Claimant was released to return to work on July 15, 1997, with certain restrictions. While at work on July 15 claimant and her supervisor, Brian Thompson, became involved

in a conversation which escalated into an argument. At one point, claimant turned to walk away from Mr. Thompson. Claimant indicated Mr. Thompson reached and grabbed her right arm yanking her backwards causing injury to her neck. Mr. Thompson said that he reached out and touched her lightly but did not yank her or in any way cause claimant any injury. After the incident, claimant went to the nurse's station and received Ibuprofen for the complaints to her neck. In addition, the burn injury on claimant's arm was redressed as there was indication that when Mr. Thompson touched claimant's arm he may have torn the scab from claimant's burn.

The witness's testimony supports the fact that claimant and Mr. Thompson were involved in a verbal altercation. There is further support that Mr. Thompson touched claimant although the extent of this touching is clearly in dispute.

In this instance, the Administrative Law Judge had the opportunity to observe the testimony of claimant, Mr. Thompson, Jessica Hulse, and Mark Dolan. The Appeals Board has found in the past and continues to find that some deference should be given to the Administrative Law Judge in cases where he has the opportunity to assess the in-person credibility of witnesses. Here, the Administrative Law Judge, after listening to the testimony of four witnesses, concluded that claimant had proven accidental injury arising out of and in the course of her employment. The Appeals Board, in giving deference to this opportunity by the Administrative Law Judge, finds that claimant has proven by a preponderance of the credible evidence that the incident on July 15, 1997, did result in an accidental injury to claimant's neck arising out of and in the course of her employment.

**WHEREFORE**, the Appeals Board finds that the Order of Administrative Law Judge Jon L. Frobish dated December 18, 1997, should be, and is hereby, affirmed.

**IT IS SO ORDERED.**

Dated this \_\_\_\_ day of March 1998.

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BOARD MEMBER

c: Randall J. Price, Wichita, KS  
Edward D. Heath, Jr., Wichita, KS  
Jon L. Frobish, Administrative Law Judge  
Philip S. Harness, Director